

Message Text

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L/M - MR. SHAMWELL (INFO)

SCS - MR. BOYLAN (INFO)

EUR/WE - MR. MARSH

AF/W-MR SMITH PHONE

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FM SECSTATE WASHDC

TO AMEMBASSY DAKAR IMMEDIATE

AMEMBASSY PARIS IMMEDIATE

C O N F I D E N T I A L STATE 043313

E.O. 11652: GDS

TAGS: PFOR, SNAR, SG, CPRS, AF

SUBJECT: UNITED STATES V. ORSINI

REF: PARIS 5239

1. PLEASE CONVEY THE FOLLOWING LETTER TO ASSISTANT U.S.
ATTORNEY DAVID A. DEPETRIS ON THIS SUBJECT:

BEGIN TEXT: "WE NOTE THAT JUDGE HENRY BRAMWELL OF THE
UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
NEW YORK HAS GRANTED THE MOTION OF THE DEFENDANT AND ORDER-
ED THE TAKING OF DEPOSITIONS IN DAKAR, REPUBLIC OF SENEGAL.
YOU ARE AWARE THAT SUCH DEPOSITIONS CAN ONLY BE TAKEN
PURSUANT TO THE AUTHORITY OF SENEGALESE LAW AND/OR WITH THE
CONSENT OF THE GOVERNMENT OF THE REPUBLIC OF SENEGAL. WE
HAVE INSTRUCTED THE EMBASSY IN DAKAR TO INFORM THAT GOVERN-
MENT OF THE ORDER AND TO REQUEST ON AN URGENT BASIS ITS
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COOPERATION IN THIS MATTER OF JUDICIAL ASSISTANCE.

"AMONG THOSE TO BE DEPOSED ARE MR. ALLEN C. DAVIS, THE DEPUTY CHIEF OF MISSION, AND DR. ALBERT J. GREEN, A PEACE CORPS PHYSICIAN. DR. GREEN HAS FILED A CERTIFICATE CONCERNING HIS PARTICIPATION IN THE CASE WHICH WAS LIMITED TO THE ADMINISTRATION OF A MILD SEDATIVE TO THE DEFENDANT.

HE DID NOT HAVE ANY CONTACTS WITH OFFICIALS OF THE SENEGALESE GOVERNMENT OR ANY KNOWLEDGE OF THIS CASE BEYOND HIS LIMITED INVOLVEMENT WITH THE DEFENDANT ON AUGUST 25, 1975.

"MR. DAVIS WAS CHARGE D'AFFAIRE AD INTERIM OF THE EMBASSY DURING THE ORSINI AFFAIR AND WAS THE POINT OF CONTACT WITH THE SENEGALESE GOVERNMENT. IT IS REASONABLE TO ASSUME THAT MR. DAVIS WOULD BE QUESTIONED ON HIS CONTACTS WITH SENIOR OFFICIALS OF THE SENEGALESE GOVERNMENT AND MATTERS OF SENSATIVITY INVOLVING THE CONDUCT OF FOREIGN RELATIONS, WHICH MAY WELL BE THE SUBJECT OF AN ASSERTION OF PRIVILEGE. THERE IS NO DOUBT THAT HIS TESTIMONY WOULD BE BOTH RELEVANT AND PROBATIVE; HOWEVER, THE DEPARTMENT OF STATE CONSIDERS IT APPROPRIATE THAT SUCH TESTIMONY BE TAKEN IN COURT WHERE THE JUDGE WOULD BE AVAILABLE TO RULE ON QUESTIONS OF ADMISSIBILITY, PRIVILEGE, AND SCOPE OF EXAMINATION. THE UNITED STATES GOVERNMENT WILL MAKE MR. DAVIS AVAILABLE TO THE COURT AND THE DEPARTMENT REQUESTS, IN VIEW OF HIS AVAILABILITY, THAT HIS TESTIMONY NOT BE TAKEN BY DEPOSITION. THIS REQUEST HAS BEEN COMMUNICATED TO MR. PETER SCHLAM OF YOUR OFFICE IN NEW YORK AND WILL BE TAKEN UP WITH JUDGE BRAMWELL. SINCERELY, MONROE LEIGH, THE LEGAL ADVISER." END TEXT.

2. AUSA SCHLAM HAS ADVISED THAT JUDGE BRAMWELL CONCURS IN DEPARTMENT'S REQUEST AND RULED THAT DAVIS NEED NOT GIVE TESTIMONY BY DEPOSITION ON THE CONDITION THAT HE MAKE HIMSELF AVAILABLE TO TESTIFY AT A TIME DESIGNATED BY THE COURT. CONSULTATION WITH AUSA DEPETRIS ON DATES CAN BE ACCOMPLISHED IN SENEGAL DURING DEPETRIS' VISIT.

3. DEPARTMENT WISHES TO BE KEPT FULLY APPRISED OF DEVELOP-
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MENTS IN BOTH PARIS AND DAKAR ON THE MATTER OF THESE DEPOSITIONS. REASONABLE REPRESENTATIONS IN BEHALF OF COOPERATION SHOULD BE MADE AND EVERY EFFORT MADE TO ACCOMMODATE MEMBERS OF THE DEPOSITION GROUP. CLEAR EXPLANATIONS OF GOVERNMENTAL POSITIONS SHOULD BE GIVEN WHENEVER HOST GOVERNMENT TAKES ADVERSE ACTION ON OUR REQUESTS TO ALLOW TAKING OF DEPOSITIONS AND COUNSEL SHOULD BE ADVISED THAT REQUESTS OF THIS NATURE SHOULD BE COORDINATED THROUGH THE

CONCERNED EMBASSIES WELL IN ADVANCE OF DEPARTURE IN ORDER
TO AVOID PROBLEMS SUCH AS ENCOUNTERED IN PARIS. INGERSOLL

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